IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

Writ Petition Nos. 9596, 9571, 9572 of 2004.

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1. WRIT PETITION NO : 9596 of 2004

Between:

M/s.ICDS Limited, Regd.Office at Syndicate House, P.O.,Manipal-576 119, Udupi District, Karnataka State,
Branch Office at Rajahmundry, rep., by its Officer Incharge T.V.S.Rama Krishna, s/o T.Subba Rao, aged about 42 years, r/o Rajahmundry

..... PETITIONER

AND

1 The Deputy Superintendent of Police, Rajahmundry, East Godavari District.
2 The Circle Inspector of Police, II Town Police Station, Rajahmundry.
3 The Sub Inspector of Police, II Town Police Station, Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly a writ in the nature of mandamus declaring the action of the respondents in harassing and threatening the petitioner to arrest in spite of the stay granted by the Hon'ble Karnataka High Court in CA No.777/2003 in CP NO.201/2002 as illegal, arbitrary, unjust, contrary to law and unconstitutional.

2. WRIT PETITION NO . 9571 of 2004

Between:

M/s. ICDS Limited Regd. Office at Syndicate House
P.O. Manipl-576 119. Udupi District, Karnataka State, Branch Office at Ananthapur, Represented byits Officer Incharge Bharat Ram, S.P., S/o. Late ShantilalPandyaAged 41years, R/o. Kurnool.

..... PETITIONER

AND

1 The Superintendent of Police, Kurnool, Kurnool District.
2 The Circle Inspector of Police, II Town Police Station, Kurnool.
3 The Sub Inspector of Police, II Town Police Station, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, particularly a Writ in the nature of Mandamus declaring the action of the Respondents in harassing and threatening the Petitioner to arrest in spite of the stay granted by the Hon'ble Karnataka High Court in C.A. No. 777/2003 in CP No. 201/2002 as illegal, arbitrary, unjust, contrary to law and unconstitutional.

3. WRIT PETITION NO : 9572 of 2004

Between:

M/s.ICDS Limited, Regd.Office at Syndicate House P.O.,Manipal-576 119, Udupi District, Karnataka State,
Branch Office at Ananthapur, rep., by its Dy.Manager (Br.Manager) H.K.Sreedhar, s/o late K.Hanumanth Rao,
aged about 40 years, r/o Ananthapur.

..... PETITIONER

AND

1 The Deputy Superintendent of Police, Ananthapur, Ananthapur District.
2 The Circle Inspector of Police, II Town Police Station, Ananthapur.
3 The Sub Inspector of Police, II Town Police Station, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly a writ in the nature of mandamus declaring the action of the respondents in harassing and threatening the petitioner to arrest in spite of the stay granted by the Hon'ble Karnataka High Court in C.A.No.777/2003 in CP No.201/2002 as illegal, arbitrary, unjust, contrary to law and unconstitutional.

Counsel for the Petitioner (in all the writ petitions) :MR. K.V.SUBRAMANYA NARASU
Counsel for the Respondents (in all the writ petitions) : GP FOR HOME

The Court made the following:

COMMON ORDER:

The petitioner, in all these writ petitions is M/s ICDS Limited, a non-banking financial institution having its head office at Manipal, Karnataka State. The three writ petitions are filed by the three Branch offices at Rajahmundry, Kurnool and Ananthapur seeking a declaration that the alleged action of the respondents-police officials in harassing and threatening to arrest the respective Branch Officers, in spite of the stay granted by the Karnataka High Court at Bangalore in C.A.No.777 of 2003 in C.P.No.201 of 2002 is arbitrary and illegal.

All the writ petitions are based on common set of facts which in brief are as follows :

M/s. ICDS formed a scheme of arrangement with its depositors, debt holders and debenture holders and approval of the scheme was sought by the rule of the Court under the Provisions of the Companies Act and in that connection a Company petition No.201 of 2002 was filed before the Karnata High Court at Bangalore, in which interim orders were passed in C.A.No.777 of 2003. By virtue of the said orders, the petitioner-Company is immune from any legal proceedings already launched or that may be initiated for realization of the amounts payable by the petitioner-Company. It is alleged that in spite of the same, the 3rd respondent-S.I. of Police, in gross violation of the orders of the Karnata High Court, arrested two officers of the Visakhapatnam Branch of the petitioner-Company in connection with crime No.40 of 2004 on the file of IV-Town P.S. , Visakhapatnam which was registered

under Sections 420 and 406 read with 34 IPC on a complaint lodged by one Maddi Lakshmi. The petitioner-Company was constrained to move a bail application for release of the officers in the Court of the III-Metropolitan Magistrate, Visakhapatnam, but they were dismissed. The local news papers published about the said case in all the district editions, as a result of which the depositors in various districts where the petitioner Company's branches are there, have started making complaint against the petitioner Company and the police officials are calling upon the officials of the petitioner Company to the police stations and threatening them to return the amounts deposited by the depositors. Hence, these writ petitions seeking a declaration that the action of the respondents in spite of the orders granted by the High Court of Karnataka is arbitrary and illegal.

Counter affidavits have been filed by the concerned respondents. In all the counter affidavits, the allegations made by the petitioner-Company have been denied and it is stated that at no point of time, the officers of the petitioner-Company were called to the police station nor harassed or threatened in any manner by the respondents. It is further stated that no complaint has been lodged by any person against the petitioner-Company and as such the question of taking any action against the officers of the petitioner-Company by the respondents does not arise.

In the light of the unrebutted averments in the counter affidavits filed by the respondents, it is clear that as on to-day no complaint has been lodged against the petitioner-bank and its officers and no proceedings are pending. Under those circumstances, these writ petitions do not deserve any adjudication on merits.

Accordingly, recording the statements of the respondents in their counter-affidavits filed in all the writ petitions that no proceedings are pending against the petitioner-Company or its officers as on to-day, and granting leave and liberty to the petitioners to institute fresh proceedings, in case necessity thereof arises, these writ petitions are closed. No costs.

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03-08-2004.

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To

1 The Deputy Superintendent of Police, Ananthapur, Ananthapur District.
2 The Circle Inspector of Police, II Town Police Station, Ananthapur.
3 The Sub Inspector of Police, II Town Police Station, Ananthapur.

4. The Deputy Superintendent of Police, Rajahmundry, East Godavari District.
5. The Circle Inspector of Police, II Town Police Station, Rajahmundry.
6. The Sub Inspector of Police, II Town Police Station, Rajahmundry.

7. The Superintendent of Police, Kurnool District.
8. The Circle Inspector of Police, II Town Police Station, Kurnool.
9. The Sub Inspector of Police, II Town Police Station, Kurnool.

10. 2 CCs to G.P. for Home, High Court of A.P. Hyderabad.

11. 2 CD copies.